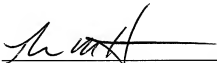


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q80771	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/810,701	March 29, 2004	
	First Named Inventor Takeo OHSAKA		
	Art Unit	Examiner	
	1797	Kevin JOYNER	
<p style="text-align: center;">WASHINGTON DC SUGIRUE/265550</p> <p style="text-align: center;">65565</p> <p style="text-align: center;">CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified Application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 64,676</p> <div style="text-align: right;">  Signature </div> <div style="text-align: right; margin-top: 20px;"> Thomas M. Hunter Typed or printed name </div> <div style="text-align: right; margin-top: 20px;"> (202) 293-7060 Telephone number </div> <div style="text-align: right; margin-top: 20px;"> July 30, 2009 Date </div>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q80771

Takeo OHSAKA, et al.

Appln. No.: 10/810,701

Group Art Unit: 1797

Confirmation No.: 9046

Examiner: Kevin JOYNER

Filed: March 29, 2004

For: METHOD FOR THE ELECTROLYTIC SYNTHESIS OF PERACETIC ACID AND
STERILIZING-CLEANING METHOD AND APPARATUS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated April 3, 2009, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejection at issue: Claims 1, 2 and 5-7 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,387,238 to Merk et al in view of U.S. Patent No. 6,949,178 to Tennakoon et al.

Applicants respectfully traverse the rejection for the reasons of record and for the following reasons.

Though conceding that Merk does not disclose a particular configuration comprising a particulate solid acid catalyst comprising a polymer resin filling a space between the gas cathode and the membrane, or a configuration further comprising the anode in contact with the

membrane, the Examiner concludes that it would have been obvious to modify the configuration of Merk to include the particular configuration of Tennakoon comprising the solid catalyst filling a space between the gas cathode and the membrane with an anode in contact with said membrane, in order to increase production rates of the aqueous solution.

The Examiner maintains this view despite Merk's disclosure that doing so would alter the configuration to an apparatus of a single chamber, which according to Merk, no membrane is needed in such a single chamber configuration. Specifically, Merk discloses one-chamber (Fig. 5) and two-chamber (Figs. 1 and 4) configurations. Further, Merk discloses that a purpose of the optional membrane (20, 220) is to separate the unit into two chambers, an anodic chamber (12, 212) and a cathodic chamber (14, 214). *See*, Abstract, col. 4, lines 52-55, col. 14, lines 38-46 and Figs. 1 and 4. In this regard, the Examiner fails to address why one skilled in the art would ignore Merk's disclosure that the purpose of the optional membrane is to separate the unit into two (2) chambers.

In addition, Merk discloses, at col. 3, lines 42-47, that advantages of the claimed invention include the ability to produce peracetic acid in situ, in small batches and on demand. The Examiner again fails to address why one skilled in the art would ignore the intended purpose of Merk's claimed configuration, given that modifying Merk's configuration as the Examiner suggests would render Merk's apparatus incapable of operating as originally intended. *See*, Supplemental Amendment of March 2, 2009, at pages 6-7.

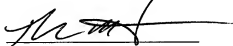
For the foregoing reasons, it is respectfully submitted that Claims 1, 2 and 5-7 are patentable over the cited art.

PRE-APPEAL BRIEF REQUEST FOR REVIEW
U.S. Application No. 10/810,701

Attorney Docket No. Q80771

Accordingly, Appellants respectfully request the reconsideration of the foregoing rejections.

Respectfully submitted,



Thomas M. Hunter
Registration No. 64,676

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Date: July 30, 2009